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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/877,606	06/08/2001	Min Lu	19603/2921 (CRF-D-2484A)	1604

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EXAMINER

PARKIN, JEFFREY S

ART UNIT	PAPER NUMBER
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1648

DATE MAILED: 01/14/2003

17

Please find below and/or attached an Office communication concerning this application or proceeding.



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Please find below a communication from the EXAMINER in charge of this application

Commissioner of Patents

1. The communication filed on 17 October, 2002, is non-responsive to the prior Office action because it failed to elect a group as clearly set forth in the restriction requirement mailed 30 July, 2002. The response also canceled all claims drawn to the elected invention and presented only claims drawn to a non-elected invention. The remaining claims are not readable on the elected invention. Since the response appears to be *bona fide*, but through an apparent oversight or inadvertence failed to provide a complete response, **applicant is required to complete the response within a time limit of one month from the date of this letter or within the time remaining in the response period of the last Office action, whichever is the longer. NO EXTENSION OF THIS TIME LIMIT MAY BE GRANTED UNDER EITHER 37 C.F.R. § 1.136 (a) OR (b) BUT THE PERIOD FOR RESPONSE SET IN THE LAST OFFICE ACTION MAY BE EXTENDED UP TO A MAXIMUM OF SIX MONTHS.**

2. In response to the communication, another restriction requirement is set forth as follows. Failure to elect a group within the time period specified *supra* will result in abandonment of the application.

35 U.S.C. § 121

3. Restriction to one of the following inventions is required under 35 U.S.C. § 121:

- a. Group I, claim(s) 48-61, drawn to a **viral envelope protein**, classified in class 424, subclasses 188.1 and 208.1.
- b. Group II, claim(s) 62-80, drawn to **vaccine compositions and methods of vaccinating** against viral infections, classified in class 424, subclasses 188.1 and 208.1.
- c. Group III, claim(s) 81-85, drawn to an **antibody** that binds to a viral envelope glycoprotein, classified in class 530, subclass 387.1.
- d. Group IV, claim(s) 86 and 87, drawn to a **viral antigen detection assay**, classified in class 435, subclasses 5 and 7.1.
- e. Group V, claim(s) 88 and 89, drawn to a **method of inhibiting viral infectivity** by administering an envelope-specific antibody, classified in class 424, subclass 130.1.

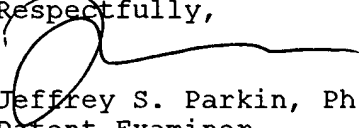
f. Group VI, claim(s) 90 and 91, drawn to a **viral drug screening assay**, classified in class 435, subclass 5.

4. Inventions I-III are all unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (M.P.E.P. § 806.04 and § 808.01). In the instant case, each of the identified groups is directed toward a structurally and functionally different product/composition (e.g., viral protein, vaccine composition, antibody).
5. Inventions II and IV-VI are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (M.P.E.P. § 806.04 and § 808.01). In the instant case, the vaccine compositions of Group II are neither required nor used in the methodologies of Groups IV-VI.
6. Inventions III and II/VI are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (M.P.E.P. § 806.04 and § 808.01). In the instant case, the antibody of Group III is neither required nor used in the methodologies of Groups II/VI.
7. Inventions I and VI are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (M.P.E.P. § 806.05(h)). In the instant case, the viral envelope protein of Group I can be employed in a number of materially different processes such as the generation of immunological reagents or affinity purification protocols.
8. Inventions III and IV/V are related as product and processes of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (M.P.E.P. § 806.05(h)). In the instant case, the antibody of Group III can be employed in a number of materially different processes such as antigen detection assays, affinity purification assays, or therapeutic processes.
9. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, recognized divergent subject matter, and require separate searches, restriction for examination purposes as indicated is proper.
10. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 C.F.R. § 1.143). Applicant is also advised that the claims should be amended to reflect the election, where necessary.
11. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(i).
12. Correspondence related to this application may be submitted to Group 1600 by facsimile transmission. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). Official

communications should be directed toward one of the following Group 1600 fax numbers: (703) 308-4242 or (703) 305-3014. Informal communications may be submitted directly to the Examiner through the following fax number: (703) 308-4426. Applicants are encouraged to notify the Examiner prior to the submission of such documents to facilitate their expeditious processing and entry.

13. Any inquiry concerning this communication should be directed to Jeffrey S. Parkin, Ph.D., whose telephone number is (703) 308-2227. The examiner can normally be reached Monday through Thursday from 8:30 AM to 6:00 PM. A message may be left on the examiner's voice mail service. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, James Housel, can be reached at (703) 308-4027. Any inquiry of a general nature or relating to the status of this application should be directed to the Group 1600 receptionist whose telephone number is (703) 308-0196.

Respectfully,


Jeffrey S. Parkin, Ph.D.
Patent Examiner
Art Unit 1648

10 January, 2003